

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

SCOTT RUFFING and KIMBERLY RUFFING, h/w	:	
	:	
vs.	:	NO. 02-CV-4422
	:	
KALMAR INDUSTRIES U.S.A. INC.,	:	
and	:	
KI-NJ, LLC,	:	
and	:	
TES, Inc.,	:	
and	:	
JOHN DOE, INC. (3-50),	:	
and	:	
JOHN DOE (1-50)	:	

ORDER

AND NOW, this day of , 2003, upon consideration of the Joint Motion for a 90-day Continuance of the Deadlines Set Forth in the December 23, 2002 Scheduling Order, it is hereby ORDERED and DECREED that the deadlines set forth in the Court's December 23, 2002 Scheduling Order shall be extended by ninety (90) days. It is FURTHER ORDERED that this case will be placed in the trial pool commencing October 1, 2003.

BY THE COURT:

J.

19183/00857/

**MARSHALL, DENNEHEY, WARNER,
COLEMAN & GOGGIN**

Jason Banonis, Esquire

I.D. 85115

10 North Main St., 2nd Floor

Doylestown, Pa. 18901

(267)-880-2028

Attorney for Defendant,

KI-NJ, LLC

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

SCOTT RUFFING and KIMBERLY RUFFING, h/w	:	
	:	
vs.	:	NO. 02-CV-4422
	:	
KALMAR INDUSTRIES U.S.A. INC.,	:	
and	:	
KI-NJ, LLC,	:	
and	:	
TES, Inc.,	:	
and	:	
JOHN DOE, INC. (3-50),	:	
and	:	
JOHN DOE (1-50)	:	

**JOINT MOTION FOR A 90-DAY CONTINUANCE
OF THE DEADLINES SET FORTH IN THE DECEMBER 23, 2002 SCHEDULING ORDER**

Plaintiffs, Scott Ruffing and Kimberly Ruffing, and Defendant, KI-NJ, LLC, by and through their respective attorneys, hereby jointly move this Honorable Court for an Order continuing the deadlines set forth in the Court's December 23, 2002 Scheduling Order, for a period of ninety (90) days, and aver as follows:

1. Plaintiffs filed an Amended Complaint alleging products liability on the part of Kalmar Industries USA, Inc., predecessor in interest to KI-NJ, LLC.
2. On December 23, 2002, this Honorable Court issued a Scheduling Order setting forth the various deadlines for the parties to conduct discovery and prepare for trial. A copy of the Court's December 23, 2002 Scheduling Order is attached hereto as Exhibit "A".

3. Pursuant to the Court's Scheduling Order, written discovery has been exchanged between Plaintiffs and Defendant, KI-NJ, LLC.

4. The parties efforts to conduct additional discovery have been limited due to the lack of cooperation from a critical witness and the naming of TES, Inc., as a Defendant.

5. Dan Imms ("Mr. Imms"), Director of Safety and Personnel for plaintiff's employer, Novolog Bucks County, Inc. ("Novolog"), was noticed for deposition to occur on January 24, 2003, and again on February 13, 2003. On both occasions, the depositions were cancelled at the request of Mr. Imms.

6. On February 19, 2003, the deposition of Mr. Imms eventually occurred. Mr. Imms offered testimony potentially implicating Transport Equipment Sales ("TES") in this litigation. Mr. Imms stated that TES originally owned and leased the forklift at issue to Novolog and later sold the forklift to Novolog.

7. Based on Mr. Imms' testimony, on March 10, 2003, Plaintiffs filed a motion to amend their Amended Complaint to name TES, Inc., as a Defendant in this case.

8. On March 24, 2003, this Honorable Court entered an Order granting Plaintiffs' Motion to Amend Complaint to Name TES as a Defendant.

9. On or about April 1, 2003, plaintiffs filed their Second Amended Complaint.

10. As of the date of this filing, no one has entered an appearance on behalf of co-defendant, TES, or filed a responsive pleading on TES's behalf. A copy of the U.S. District Court for the Eastern District of Pennsylvania docket is attached hereto as Exhibit "B". It appears, however, that counsel's entry of appearance on behalf of TES should be filed in the immediate future.

11. Although this matter is currently listed to enter the trial pool on July 1, 2002, from the time of Mr. Imms deposition on February 19, 2003, until the present, the parties have been unable to conduct any discovery, other than issuing subpoenas for plaintiff's medical and employment records.

12. The parties refrained from conducting meaningful discovery while awaiting the naming of TES as a defendant and the entry of appearance of counsel for TES. The parties attempted to avoid the need to duplicate discovery and waste judicial resources when TES ultimately became involved in this litigation.

13. Since Michael Takacs, Esquire, counsel for Defendant, TES, has submitted a Waiver of Service, and apparently will enter his appearance in the immediate future, it appears that discovery may now proceed as planned.

14. In particular, the parties plan to: (1) conduct written discovery of defendant TES; (2) depose plaintiffs and the respective corporate representatives of defendants, KI-NJ, LLC, and TES; (3) conduct expert discovery of the parties' respective expert witnesses; (4) prepare for and attend any necessary settlement conference; (5) prepare and file any necessary dispositive motions; and (6) prepare for trial.

15. Accordingly, the parties respectfully request an additional ninety (90) days to complete the aforementioned discovery and prepare this matter for trial.

WHEREFORE, Plaintiffs, Scott Ruffing and Kimberly Ruffing, and Defendant, KI-NJ, LLC, respectfully request this Honorable Court enter the attached Order continuing the deadlines set forth in the Court's December 23, 2002 Scheduling Order, for a period of ninety (90) days.

LAW OFFICES OF RICHARD A. STOLOFF

MARSHALL, DENNEHEY, WARNER,
COLEMAN & GOGGIN

By: Richard A. Stoloff, Esquire
Attorney for Plaintiffs,
Scott Ruffing and Kimberly Ruffing

By: Jason Banonis, Esquire
Attorney for Defendant,
KI-NJ, LLC

CERTIFICATE OF SERVICE

I, Jason Banonis, Esquire, do hereby certify that a true and correct copy of Joint Motion for a 90-Day Continuance of the Deadlines Set Forth in the December 23, 2003 Scheduling Order was served upon all parties by first class mail on May 13, 2003 at the following addressees:

Richard A. Stoloff, Esquire
605 New Road
Linwood, NJ 08221

Michael Takacs, Esquire
Wilson, Elser, Moskowitz, Edelman & Dicker LLP
The Curtis Center, Ste. 1130
Independence Square West
Philadelphia, PA 19106

Respectfully submitted,

JASON BANONIS, ESQUIRE
Identification No. 85115

10 North Main Street,
2nd Floor
Doylestown, PA 18901
(267) 880-2028

Attory for Defendant,
KI-NJ, LLC

Dated: May 13, 2003